United Nations S/2001/374

Security Council

Distr.: General
18 April 2001
English
Original: Arabic

Letter dated 16 April 2001 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 15 April 2001 from Mr. Humam Abd al-Khaliq Abd al-Ghafur, Minister of Information and Acting Minister for Foreign Affairs of the Republic of Iraq, concerning the delimitation of the continental shelf between Iran and Kuwait. The letter states that the delimitation of international boundaries in the boundary triangle common to three countries cannot be carried out by two of them while excluding the third. It points out that it is ironic that while Iran is affecting ignorance of this fact it is at the same time strenuously opposed to any delimitation of the continental shelf in the Caspian Sea by other countries while excluding Iran. It does so in accordance with the official position of the Iranian Government, as the letter makes clear.

The Minister affirms Iraq's outright rejection of any agreement that is prejudicial to its legitimate rights with respect to the continental shelf, and he expresses the hope that you will once again inform Iran and Kuwait that it is necessary to comply with the relevant international covenants.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Al-Douri**
Ambassador
Permanent Representative

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Annex to the letter dated 16 April 2001 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

I refer to my letter dated 14 August 2000 addressed to you (S/2000/821, annex) concerning the delimitation of the continental shelf between Iran and Kuwait.

Despite the concern we expressed in our aforesaid letter for compliance with the Charter of the United Nations and the 1982 United Nations Convention on the Law of the Sea with a view to ensuring stability and security in the region and the welfare of its peoples, we have noted that our desire for this has not been met with the same good faith entertained by Iraq in maintaining that all the countries concerned must participate in the delimitation of the continental shelf, that is to say Iraq, Iran and Kuwait.

We have considered the letter dated 26 December 2000 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to you (S/2000/1243), which displays a strange disregard for the norms of international law and, in particular, for the Convention on the Law of the Sea.

The statements of the Permanent Representative of Iran to the effect that Iraq's plea for the participation all the States that have an interest in the continental shelf "lacks legal basis" and that Iran regards "the reference to article 83 of the 1982 United Nations Convention on the Law of the Sea in Iraq's letter as an irrelevant justification for the baseless perception" are themselves to be regarded as having been made in deliberate disregard and indeed in breach of an important international convention that, with its ratification by a majority of States and their accession to it, has become part and parcel of international custom.

The delimitation of international boundaries in the boundary triangle common to three countries cannot be carried out by two of them while excluding the third. This is because the determination of the boundary tripoint will be affected by any agreement reached by two countries while excluding the third. This is an established rule in international intercourse that has been cited in the decisions of international tribunals.

It is ironic that while Iran is affecting ignorance of this fact it is at the same time strenuously objecting to any delimitation of the continental shelf in the Caspian Sea that is carried out by other States while excluding Iran. We should like in this connection to refer to a report disseminated by the Islamic Republic News Agency (IRNA) on 8 April 2001 and carried by Agence France-Presse. It states that on the previous Sunday IRNA had said that the Russian envoy for the Caspian region, Viktor Kalyuzhny, had held talks in Tehran with a senior official in the Ministry of Foreign Affairs that had focused on the legal regime of the Caspian Sea, whose shores are divided among several countries; that IRNA had added that Kalyuzhny had spoken with Iranian Deputy Foreign Minister Ali Ahani about their countries' respective positions on the legal regime of the Caspian; that the Russian envoy had arrived in Tehran after a tour of the other Caspian countries, which are, in addition to the Russian Federation, Azerbaijan, Kazakhstan and Turkmenistan; that Iran had stressed that it rejected any [bilateral] accords on the Caspian Sea; that the Iranian Ministry of Foreign Affairs had called for agreement on a new legal regime for the Caspian to complement that already in existence; and that the Iranian Ministry of Foreign Affairs had stressed that it recognized only the agreements signed by Iran

and the Soviet Union, that it rejected any modification of those agreements by means of bilateral contacts and that it would insist on reaching a common accord.

What applies to the legal arguments and ascriptions we have mentioned also applies to the statements made in the letter dated 4 April 2001 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to you (S/2001/330).

In the light of the foregoing, we once again reiterate that Iraq rejects outright any agreement that is prejudicial to its legitimate rights with respect to the continental shelf and that the stability and security of the region can only be assured in a framework of compliance with international law and respect for its norms and of cooperation among the countries of the region for the achievement of this goal.

We express the hope that you will once again inform Iran and Kuwait that it is necessary to comply with the relevant international covenants, and we request you to have this letter circulated as a document of the Security Council.

(*Signed*) Human Abd al-Khaliq **Abd al-Ghafur**
Minister of Information and Acting Minister for Foreign Affairs